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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,386	06/07/2007	James K. Garland	TEAR AWAY WALL	7139
<div>7590      02/25/2011</div> <div>Terry M. Crellin 204 W. 330 North Laverkin, UT 84745</div> <div>EXAMINER NELSON, MATTHEW M</div> <div>ART UNIT      PAPER NUMBER</div> <div>3776</div> <div>MAIL DATE      DELIVERY MODE</div> <div>02/25/2011      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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*Ex parte* MATHEW M. NELSON

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Application 10/589,386  
Technology Center 3700

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DECISION ON PETITION

This is a decision on the “Petition to Revive Unintentionally Abandoned Application Under Rule 1.137(b)”, filed October 25, 2010 (“Petition to Revive”). *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On June 10, 2009, Appellant filed an Appeal Brief.
2. On July 16, 2009, the Examiner entered a Notification of Non-Compliant Appeal Brief.
3. On July 23, 2009, Appellant filed Corrections to the Appeal Brief.
4. On October 19, 2009, the Examiner entered another Notification of Non-Compliant Appeal Brief.
5. On October 26, 2009, Appellant filed Applicant’s Amended Appeal Brief.

6. On January 19, 2010, the Examiner entered a Notice of Abandonment, noting:

The communication filed on 10/19/09 (sic 10/26/09) did not correct the status of claims.

7. On February 12, 2010, Appellant filed a Petition to the Director, under 37 CFR § 1.183.

8. On October 5, 2010 a decision on the Petition to the Director was mailed to Appellant, denying Appellant's Petition, but giving Appellant one month to file a Petition under 37 CFR § 1.137(b).

9. On October 25, 2010, Appellant filed the present Petition and the amended first page of the Appeal Brief that was filed on February 12, 2010.

10. The Petition to Revive was accompanied by:

- (a) The Amended First Page of the Appeal Brief correcting the defect;
- (b) The Petition Fee; and
- (c) A statement that "applicant hereby states that the required reply from the due date for the reply until the filing of a grantable petition pursuant to paragraph (b) of Rule 1.137 was unintentional."

11. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

12. Since the application was filed after June 8, 1995, on June 7, 2007, no terminal disclaimer is required.

13. A review of the amended first page of the Appeal indicates that the correction is in compliance with 37 CFR § 41.37.

DISCUSSION

As indicated above, Appellant has complied with all of the requirements of a petition under 37 CFR § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the application is returned to the Examiner for the preparation of an Examiner's Answer.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'M' followed by a horizontal line.

James T. Moore

Acting Chief Administrative Patent Judge

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